



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/849,107	05/04/2001	Stephen Andrew Brodsky	STL920000075US2	1986
48838	7590	03/16/2005	EXAMINER	
JEFFREY SAM SMITH 51 EAST CAMPBELL AVENUE CAMPBELL, CA 95008			BAYARD, DJENANE M	
			ART UNIT	PAPER NUMBER
			2141	

DATE MAILED: 03/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/849,107

Applicant(s)

BRODSKY ET AL.

Examiner

Djenane M Bayard

Art Unit

2141

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-18,20-32,34-44,46-56 and 59-67 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-18,20-32,34-44,46-56 and 59-67 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This is in response to amendment filed on 1/11/05 in which claims 1-3, 5-18, 20-32, 34-44, 46-56, 59-67 are pending.

Response to Arguments

In the previous office action mailed on 10/06/04, Applicant was requested to amend or cancel the conflicting claims so they are no longer coextensive in scope in order to overcome the statutory type (35 U.S.C 101) double patenting rejection. However, claims 1-3, 16-18, 30-32, 44 and 55 – 56, 59-60 are still coextensive in scope. The fact that Applicant changed the name “first language” to “first source language” and “the language” to “ first target language” does not change the scope in regards to claims 1-4, 6-9, 11-14, 16-17 and 19-24 of Co-pending application No. 09/849377. Therefore, claims 1-3, 5-18, 20-32, 34-44, 46-56, 59-67 stand rejected as previously stated in office action mailed on 10/06/04 and this case is made FINAL.

Double Patenting

A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101, which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

Claims 1 is provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1 and 4 of copending Application No. 09/849377. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

Claims 2-3 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 2-3 of copending Application No. 09/849377. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

Claims 16 is provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 6 and 9 of copending Application No. 09/849377. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

Claims 17 and 18 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 7 and 8 of copending Application No. 09/849377. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

Claims 30 is provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 11 and 14 of copending Application No. 09/849377. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

Claims 31 and 32 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 112-13 of copending Application No. 09/849377. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

Claims 44 is provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 16 and 17 of copending Application No. 09/849377. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

Claims 55 is provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 19-21 of copending Application No. 09/849377. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

Claims 59-60 provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 23-24 of copending Application No. 09/849377. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Djenane M Bayard whose telephone number is (571) 272-3878. The examiner can normally be reached on Monday- Friday 5:30 AM- 3:00 PM..

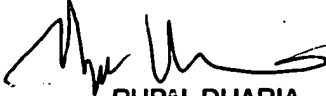
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on (571) 272-3880. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2141

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Djenane Bayard

Patent Examiner



RUPAL DHARIA
SUPERVISORY PATENT EXAMINER